

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOE MACOM,

Plaintiff,

v.

JOSEPH LEHMAN, *et al*,

Defendants.

Case No. C05-5338FDB-KLS

ORDER GRANTING  
DEFENDANTS' MOTION FOR  
EXTENSION OF TIME TO FILE  
JOINT STATUS REPORT

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court on defendants' filing of a motion for extension of time to file a joint status report. (Dkt. #58). After reviewing defendants' motion, plaintiff's response to that motion, defendants' reply thereto, and the balance of the record, the Court finds and orders as follows:

On October 24, 2006, the Court granted defendants' first motion for extension of time to file a dispositive brief, and re-set the pre-trial deadlines. (Dkt. #44-#47). The Court granted defendants' second such motion as well on February 14, 2007, and once more re-set the pre-trial deadlines in this matter. (Dkt. #48-#51). In particular, the deadline for filing dispositive motions was re-set to May 18, 2007, and for filing a joint status report to July 2, 2007. No dispositive motion, however, was filed by the deadline set therefor. Further, no joint status report has been filed in this matter, although plaintiff did file on June 11, 2007, a document titled "Joint Status report, Conference Request," in which he requests defendants' attorney set up a conference with him for that purpose. (Dkt. #52).

1 On July 2, 2007, defendants filed their current motion, seeking a 60-day extension in the deadline  
2 for filing the joint status report. In support thereof, defendants state that settlement negotiations have  
3 been ongoing, with a third party acting as intermediary, that a proposed settlement agreement was  
4 forwarded to plaintiff, and that they anticipate it being returned in the near future. Thus, defendants seek  
5 the requested extension to allow for finalization of settlement negotiations.

6 On July 19, 2007, plaintiff filed a motion in opposition to defendants' motion. (Dkt. #61) Because  
7 plaintiff's motion merely responds to defendants' motion, however, the Court shall treat it as a response  
8 and not as a separate motion. Plaintiff opposes defendants' motion, asserting that defendants failed to file  
9 any dispositive motions, failed to respond to his request for a conference regarding the joint status report  
10 or to contact him regarding it. Plaintiff also asserts defendants' offers during settlement negotiations have  
11 been unacceptable, but states he is willing to continue such negotiations. Plaintiff believes though that  
12 further delays imposed by the Court will prejudice his case, and that ordering defendants to immediately  
13 comply with the joint status report filing deadline will not hinder settlement negotiations.

14 Plaintiff, however, has not shown that the requested extension of time to file the joint status report  
15 will prejudice his case or otherwise irreparably injure his constitutional rights as he claims. He implies  
16 that at least some of the named defendants may leave or otherwise have their employment terminated with  
17 the Department of Corrections during that time, but this possibility is speculative at best, and no showing  
18 is made that even if some do leave, they will no longer be available to testify.

19 Plaintiff also misses the point that a joint status report must be filed jointly by the parties, and thus  
20 that both he and defendants' counsel will need additional time to confer and do so. In addition, because  
21 plaintiff admits he is willing to proceed with settlement negotiations, and because, as discussed above, he  
22 has failed to show he will suffer prejudice, undue or otherwise, the Court finds defendants' request for a  
23 60-day extension from the noting date of their motion (July 20, 2007) to be reasonable.

24 Accordingly, defendants' motion for extension of time to file joint status report (Dkt. #58) hereby  
25 is GRANTED. The parties thus are directed to confer and provide the Court with a joint status report by  
26 no later than **September 18, 2007**. The joint status report shall contain the following information by  
27 corresponding paragraph numbers:

28 1. A short and concise statement of the case, including the remaining legal and factual issues to  
be determined at trial;

2. A narrative written statement from each party setting forth the facts that will be offered by oral or written documentary evidence at trial;

3. A list of all exhibits to be offered into evidence at trial;

4. A list of the names and addresses of all the witnesses each party intends to call along with a short summary of anticipated testimony of each witness.

6. Whether the parties agree to arbitration under this district's arbitration program, and if so whether the arbitration will be final and conclusive or the right to trial de novo will be preserved (see Local Rule CR 39.1(d));

7. Whether the case should be bifurcated by trying the liability issues before the damages issues, or specially managed in any other way;

8. Any other suggestions for shortening or simplifying the trial in this case;

9. The date the case will be ready for trial, considering Local Rule CR 16 deadlines;

10. The dates on which trial counsel are unavailable and any other complications to be considered in setting a trial date;

11. Whether the trial will be by jury or non-jury;

12. The number of trial days required, and suggestions for shortening trial;

13. The names, addresses, and telephone numbers of all trial counsel and unrepresented (pro se) parties who intend to appear at trial.

If the parties are unable to agree on any part of the report, they may answer in separate paragraphs. **Separate reports are not to be filed.** As defendants have requested this extension of time, defendants, through their counsel, shall be responsible for initiating communications for the preparation of the joint status report.

The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

DATED this 3rd day of August, 2007.



Karen L. Strombom  
United States Magistrate Judge